



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
27 Maple Street
Arlington, MA 02476

Tel: (781) 316-3170
Fax: (781) 316-3175

Permit to Operate a Residential Kitchen

Fee: \$100.00 (Category 1)

Name of Business: _____

Address: _____

Tel: _____ **Email:** _____

Name and Title of Applicant: _____

List the types of foods to be made: _____

Provide a list of food suppliers (where food is purchased): _____

Do you sell your products to other food establishments?	YES	NO
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Do you sell your products directly to the consumer?	YES	NO
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Do you have a Wholesale Permit from the Mass. Dept of Public Health?	YES	NO
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*****If yes, provide a copy of your permit from the State*******

All foods prepared in a residential kitchen must be labeled with all ingredients (in order of amount by volume), name of residential kitchen, address and/or phone number, and sell-by-date, if required.

*****Provide copies of labels for all products.**

Food products manufactured in Massachusetts's residential kitchens may not be sold out-of-state.

Signature of Applicant: _____ **Date:** _____

Residential Kitchens Questions and Answers

**Massachusetts Department of Public Health
Bureau of Environmental Health
Food Protection Program**

617-983-6712
305 South Street
Jamaica Plain, MA 02130

There are an increasing number of private citizens preparing food products in their home kitchens for sale. Massachusetts allows its residents to operate home-based businesses to produce low-risk foods, such as cakes, cookies, breads, and confectioneries. Currently, the Massachusetts Department of Public Health Food Protection Program receives more than 200 inquiries per year from citizens interested in starting home-based food businesses.

Home-based food businesses are allowed within specific regulatory limitations. Retail Residential kitchen operations are restricted to sale directly to the consumer and are inspected and licensed by the local board of health. Wholesale operations may sell their products to retail stores, restaurants, etc., and are inspected and licensed by the Massachusetts Food Protection Program.

At the end of this brochure there is a listing of regulations pertaining to retail and wholesale residential kitchens, as well as information as to where to obtain copies.

The following are answers to some of the most commonly asked questions about residential kitchen operations.

What kinds of foods may be prepared in a residential kitchen?

Residential kitchens are strictly limited to the preparation of non-potentially hazardous foods (non-PHF), such as baked goods, confectioneries, jams and jellies. Non-PHF, such as cakes and cookies, which have PHF ingredients are acceptable.

What kinds of foods *may not be prepared* in a residential kitchen?

The preparation and sale of potentially hazardous foods (PHF) such as cream-filled pastries, cheesecake, custard and other foods which can support the growth of disease-causing bacteria are strictly prohibited.

In addition, perishable foods that require refrigeration, such as cut fruit and vegetables, tomato and barbecue sauce, pickled products, relishes and salad dressings are not permitted in residential kitchens.

In addition, all foods that are manufactured or packaged using processes that require state or federal control (e.g., acidification, hot fill, vacuum-packaging, etc) are prohibited. Garlic-in-oil products are not permitted.

What types of processing operations are prohibited in a residential kitchen?

Processing operations that are prohibited include: acidification, hot fill, thermal processing in hermetically-sealed containers, vacuum packaging, and curing/smoking. The only exception is jams and jellies that are thermal-processed in hermetically-sealed containers.

To evaluate the non-potentially hazardous status of a food, what type of laboratory analysis may a board of health or the Massachusetts Department of Public Health request?

For any food product, the board of health or the Massachusetts Department of Public Health may require laboratory documentation that the food has a final pH of 4.6 or below or a water activity of 0.85 or below.

When reporting results, the laboratory must reference the standardized testing procedure.

Residential kitchen operators must keep records of analysis of products on file for review.

Must a residential kitchen operator use a standard recipe for each batch of product?

Yes. Persons preparing food products must maintain a standardized recipe of the products used in the preparation of the food: listing all ingredients in order of weight. Any change in the recipe constitutes a recipe deviation, and new analysis may be required.

Are there any personnel, marketing or volume restrictions for residential kitchens?

Yes. First, only household members may be employed in the operation.

Second, the use of brokers, wholesalers, and warehouses by residential kitchen operators to store, sell, and distribute foods prepared in residential kitchens is prohibited.

Food products manufactured in Massachusetts residential kitchens may not be sold out-of-state (in interstate commerce), because the U.S. Food and Drug Administration does not recognize these foods as originating from an approved source.

Massachusetts Residential Kitchens

Regulations

Retail Sale:

- **105 CMR 590.000** *Minimum Sanitation Standards for Food Establishments, Chapter X*
- **105 CMR 520.000** *Massachusetts Labeling Regulations*

Wholesale:

- 105 CMR 500.000** *Good Manufacturing Practices*
- 105 CMR 520.000** *Massachusetts Labeling Regulations*

Unofficial copies of all regulations are available at: <http://mass.gov/dph/fpp/regs.htm>

License Applications

A residential kitchen that wholesales its product is required to obtain a *License for Food Processing and/or Distribution at Wholesale* from the Massachusetts Department of Public Health

An application for a License to Manufacture and/or Distribute Food at Wholesale is available at <http://mass.gov/dph/fpp/pdf/foodapplication.pdf>

A Guidance document, "Notice for Applicants for a License to Manufacture/Distribute Food at Wholesale from a Residential Kitchen is available at <http://www.state.ma.us/dph/fpp/wfoapp.pdf>.

To obtain copies, contact a State Bookstore:

**Massachusetts State House
Beacon Street, Room 116
Boston, MA 02213**

or telephone:

**Boston: 617-727-2834
Springfield: 413-784-1376
Fall River: 508-646-1374**

If you have questions about retail residential kitchen operations and licensing, please contact your local board of health.

If you have questions about wholesale residential kitchen operations and licensing, contact the:

**Massachusetts Department of Public Health
Center for Environmental Health
Food Protection Program
305 South Street
Jamaica Plain, MA 02130
617-983-6712.**

590.009(D) as well as the Administration and Enforcement sections (105 CMR 590.010 through 590.021), except they shall be exempt from 105 CMR 590.043, "Plan Submission and Approval" in which case only an intended menu shall be submitted to the board of health with their application for permit. However, bed and breakfast establishments with ten guestrooms or more shall comply with all provisions of 105 CMR 590.000.

- (b) Bed and breakfast homes and bed and breakfast establishments, which require a permit, shall be inspected by the board of health upon application for an original permit and within the six months prior to renewal of a permit, and as often as necessary for the enforcement of 105 CMR 590.000.
- (c) Food preparation and protection: Residential kitchens in bed and breakfast homes and bed and breakfast establishments.
 - (1) Food shall be prepared and protected in accordance with 105 CMR 590.000.
 - (2) Food, utensils and equipment shall be stored in a manner to avoid contamination.
 - (3) The following food handling practices for potentially hazardous foods are prohibited: cooling and reheating prior to service, hot holding for more than two hours, and service of leftovers.
 - (4) All food temperature requirements shall be met as contained in 105 CMR 590.000. Hot and cold holding equipment shall be provided to maintain potentially hazardous foods at temperatures required by 105 CMR 590.000.

(2) **Residential Kitchens: Retail Sale.**

- (a) A food establishment permit shall be required if food is prepared in or distributed from a residential kitchen for retail sale except as exempted under the definition of food establishment in 105 CMR 590.002 and shall comply with the minimum requirements of 105 CMR 590.009(D) as well as the Administration and Enforcement sections (105 CMR 590.010 through 590.021), except they shall be exempt from 105 CMR 590.043, "Plan Submission and Approval" in which case only an intended list of food to be prepared or distributed shall be submitted to the board of health with their application for permit. In addition, the following requirements shall be met:
- (b) Food Preparation and Protection: Residential Kitchen for Retail Sale.
 - (1) Only non-potentially hazardous foods and foods which do not require refrigeration and a variance in accordance with 105 CMR 590.010(H) shall be prepared in or distributed from a residential kitchen for retail sale to the public except as exempted under the definition of food establishment in 105 CMR 590.002. Ingredients that are potentially hazardous foods, such as milk, cream, and eggs, may be used in food preparation for the public provided that the final product is not a potentially hazardous food.
 - (2) Wholesale operations requiring a food processor registration by the Department shall not be conducted in an establishment holding a residential kitchen permit.
 - (3) Only immediate family members residing in the household may prepare food for retail sale in a residential kitchen.

(3) General Requirements for All Residential Kitchens.

- (a) Food supplies. Food shall be obtained from approved sources, shall be in sound condition, and be safe for human consumption. Foods, which do not comply with 105 CMR 590.000, shall not be served to the public and shall either be stored separately or labeled for private use. A separate shelf or portion thereof within a refrigerator shall be an acceptable form of separate storage. In addition to requirements set forth in FC 3-201.11(C), packaged food shall also meet requirements set forth in 105 CMR 520.000: *Labeling*.
- (b) Personal health and hygiene. Food employees shall conform to employee health and hygiene requirements in 105 CMR 590.000.
- (c) Handwashing. A soap dispenser and disposable towels for use in handwashing shall be provided at the kitchen sink. This sink shall not be used for handwashing after toilet use but may be used for food preparation and warewashing provided it is cleaned and sanitized prior to and between use.
- (d) Toilet Room. A toilet room shall be available for use by food employees. Toilet rooms opening to the kitchen or dining area shall have adequate ventilation. Ventilation may be provided by window(s) or by mechanical means. A soap dispenser and disposable towels shall be provided for handwashing in toilet rooms used by food employees.
- (e) Equipment And Utensil Design And Construction. All equipment and utensils shall be constructed of safe materials and maintained in good repair.
- (f) Food-contact surfaces. All food contact surfaces, counters, sinks and work surfaces in the establishment shall be smooth, non-absorbent and easily cleanable.
- (g) Cleaning and sanitizing.
 - (1) Food contact surfaces of equipment, tableware and utensils shall be cleaned and sanitized prior to food preparation for the public and after each use in accordance with 105 CMR 590.000.
 - (2) For manual cleaning and sanitizing of cooking equipment, utensils and tableware, three compartments shall be provided and used; or a two compartment sink may be used if single service tableware is provided, or when an approved detergent sanitizer is used in accordance with FC 4-501.114 and FC-4-301.12. The board of health may allow the use of compartments other than sinks, such as tubs and basins.
 - (3) A domestic or home style dishwasher may be used provided the following performance criteria are met:
 - (a) The dishwasher must effectively remove physical soil from all surfaces of dishes, equipment and utensils.
 - (b) The operator shall provide and use daily a maximum registering thermometer or a heat thermal label to determine that the dishwasher's internal temperature is a minimum of 150°F after the final rinse and drying cycle. Records of this testing shall be kept on file for 30 days.
 - (c) The dishwasher must be installed and operated according to manufacturer's instructions for the highest level of sanitization possible when sanitizing residential kitchen facilities' utensils and

tableware; a copy of the instructions must be available on the premises at all times.

- (4) There shall be sufficient area or facilities such as portable dish tubs and drain boards for the proper handling of soiled utensils prior to washing and of cleaned utensils after sanitization so as not to interfere with safe food handling, handwashing and the proper use of dishwashing facilities. Equipment, utensils and tableware shall be air-dried.

(h) Insect proof/rodent proof.

- (1) Food service preparation and storage areas shall be constructed and maintained to prevent the entry of pests and other vermin.
- (2) Pesticides and rodenticides shall be applied according to law.

(i) Premises.

- (1) Pets may be present on the premises, but shall be kept out of food preparation and dining areas during food preparation and service to the public.
- (2) Laundry facilities may be present in the kitchen, but shall not be used during food preparation and service to the public.
- (3) Cooking facilities in the kitchen shall not be available to guests.

(j) Garbage receptacles. Impervious receptacles shall be provided for storage of garbage and refuse.

(k) Water supply. Hot and cold water under pressure shall be provided and shall be from an approved source.

(l) Sewage. Sewage shall be disposed of through an approved system that is:

- (1) A public sewage treatment plant; or
- (2) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

Anti-Choking Procedures in Food Service Establishments. [105 CMR 590.009(E)]

Pursuant to M.G.L. c. 94, § 305D, each food service establishment having a seating capacity of 25 persons or more shall:

- (1) Have on its premises, while food is being served, an employee trained in manual procedures approved by the Department to remove food lodged in a person's throat; and
- (2) Make adequate provision for insurance to cover employees trained in rendering such assistance.

Tobacco Products: Notice and Sale. [105 CMR 590.009(F)]

- (1) In conformance with M.G.L. c. 270, § 6 and §6A, a food establishment shall not sell cigarettes, chewing tobacco, snuff or tobacco in any of its forms or cigarette rolling papers to any person under the age of 18. In conformance with M.G.L. c. 64C, § 10, a food establishment, in which a vending machine for the sale of cigarettes or tobacco is located, shall not permit a person under the age of 18 to use such machine.
- (2) In conformance with M.G.L. c. 270, § 7, in any food establishment in which cigarettes are sold by means other than a vending machine, a copy of a notice meeting the



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Residential Kitchen Documents Required:

- Provide a list of foods to be prepared for sale/service
 - Provide a list of Food Suppliers (where food will be purchased)
 - If planning to wholesale products – you must obtain a Wholesale License from the MA Department of Public Health
 - If planning to wholesale products – must provide copies of labeling for all products – labels must be in accordance with 105 CMR 590.000 (2013 Food Code)
-

Guidelines for Residential Kitchen Inspections:

- Good health/hygiene practices
- Sink for hand washing with soap and paper towels
- Toilet room – clean and sanitary condition
- Equipment must be in good repair
- Food contact surfaces must be smooth and easily cleanable
- Must have a dishwasher or 2 compartments sink
- Must be insect and rodent proof
- Pets on the premises must be out of the preparation area during prep times

Minimum Requirements for Packaged-food Labeling

The Massachusetts Food Protection Program has prepared this guide to help you develop a food label that complies with Massachusetts and federal labeling requirements. For additional information, please refer to the resources listed on the back panel.

Foods that Require Labeling

All packaged foods must be labeled in accordance with Massachusetts and federal labeling regulations, including all foods intended for retail sale that are manufactured in licensed residential kitchens.



For interpretations and assistance with labeling regulations, please contact:

**Food Protection Program
Bureau of Environmental Health
Massachusetts Department of Public Health
305 South Street
Jamaica Plain, MA 02130**

**Phone: 617-983-6712
Fax: 617-983-6770
TTY: 617-624-5286
Web: www.mass.gov/dph/fpp**

**Or the U.S. Food and Drug Administration
Office of Nutritional Products, Labeling, and
Dietary Supplements: 202-402-2373
[http://www.fda.gov/Food/GuidanceRegulation/
GuidanceDocumentsRegulatoryInformation/
LabelingNutrition/ucm2006828.htm](http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm2006828.htm)**

Minimum Information Required on a Food Label

The Massachusetts and federal labeling regulations require the following information on every food label:

- Common or usual name of the product.
- **All** ingredients listed in descending order of predominance by weight, and a complete listing of sub-ingredients.
Example of a sub-ingredient: Flour (bleached wheat flour, malt barley, flour, niacin, iron, potassium thiamine, thiamine mononitrate, riboflavin).
- Net weight of product.
Dual declaration of net weight, if product weighs one pound or more.
Example: 1 pound [16 oz.]
- “Keep refrigerated” or “Keep frozen” (if product is perishable).
- All perishable or semi-perishable foods require open-dating and recommended storage conditions printed, stamped, or embossed on the retail package.
- Once an open-date has been placed on a product, the date may not be altered.
- Name and address of the manufacturer, packer, or distributor. If the company is not listed in the current edition of the local telephone book under the name printed on the label, the street address must also be included on the label.
- Nutrition labeling.
- If a food product has a standard of identity, the food must meet the standard in order to be offered for sale under that product name.
- All FDA certified colors.
Example: FD&C Yellow #5, FD&C Red #3

Massachusetts Open-dating Regulation

To comply with the Massachusetts open-dating labeling regulation, a “sell-by” or “best-if-used-by” date is required if the product has a recommended shelf life of fewer than 90 days.

Foods exempt from this requirement include: fresh meat, poultry, fish, fruits, and vegetables offered for sale unpackaged or in containers permitting sensory examination, and food products pre-packaged for retail sale with a net weight of less than 1½ ounces.

Foods may be sold after the open-date if the following conditions are met:

- It is wholesome and good quality.
- The product is segregated from food products that are not “past date,” and the product is clearly marked as being “past date.”

Health Claims

Health claims allowed by the FDA on a label are limited to the following relationships between diet and disease:

1. Calcium and reduced risk of osteoporosis.
2. Sodium and increased risk of hypertension.
3. Dietary saturated fat and cholesterol and increased risk of heart disease.
4. Dietary fat and increased risk of cancer.
5. Fiber-containing grain products, fruits, and vegetables and reduced risk of cancer.
6. Fruits/vegetables and reduced risk of cancer.
7. Fruits, vegetables, and grain products that contain fiber, particularly soluble fiber and reduced risk of heart disease.
8. Soluble fiber from certain foods and reduced risk of heart disease.
9. Folic acid and reduced risk of neural tube defects.
10. Soy protein & reduced risk of heart disease.
11. Stanols/sterols and reduced risk of heart disease.
12. Dietary non-cariogenic carbohydrate sweeteners and reduced risk of tooth decay.

Food Allergen Labeling

The Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA) addresses the labeling of foods that contain any of the eight major food allergens.

FALCPA defines "major food allergens" as

Milk	Fish
Egg	Crustacean Shellfish
Peanuts	Tree Nuts
Soybeans	Wheat

All ingredients that contain a major food allergen must be labeled, even if they are exempted from labeling by being a spice, flavoring, coloring or incidental additive.

FALCPA requires the labeling of food allergens in one of two ways.

1. In the ingredient statement, include the common or usual name of the food source, followed by the name of the allergen in parentheses. For example: Ingredients: Flour (**wheat**), whey (**milk**)
2. After the ingredient statement, place the word, "Contains:" followed by the name of the food allergen. For example: *Contains: Wheat, Milk*

FALCPA requires that:

- For Tree Nuts, the specific type of nut must be declared.
Example: almonds, pecans, walnuts
- For Fish and Crustacean Shellfish, the species must be declared:
Example: cod, salmon, lobster, shrimp

FALCPA's requirements apply to all packaged foods sold in the United States, including both domestically manufactured and imported foods.

Resource Information on Labeling

Food labeling
105 CMR 500.006

FDA food labeling guide
<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm2006828.htm>

Principal display panel
21 CFR 101.1

Information panel
21 CFR 101.2

Identity labeling of food
21 CFR 101.3

Nutrition labeling
21 CFR 101.9

Misbranding of food
MGL c. 94 sec. 187
21 CFR 101.18

Organic labeling
<http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELDEV3004446>

Trans Fat
<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm053479.htm>

Allergens
Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA) (Public Law 108-282) Guidance for Industry
<http://www.fda.gov/food/guidanceregulation/guidancedocumentsregulatoryinformation/allergens/default.htm>

NOTE: This brochure is only a guide.

Since regulations are amended from time to time, it is the responsibility of licensees to know and abide by all current labeling regulations. Always consult official Massachusetts and federal regulations to ensure labels are in full compliance.

Massachusetts Minimum Requirements for Packaged-Food Labeling



WHEAT BREAD

Ingredients: Flour (bleached wheat flour, malt barley, flour, niacin, iron, potassium thiamine, thiamine mononitrate, riboflavin, folic acid), Sugar, Eggs, Water, Milk, Margarine (liquid soybean oil, partially hydrogenated soybean oil, water, salt, whey, soybean lecithin, vegetable mono & diglycerides, sodium benzoate as a preservative, potassium caseinate [a milk protein], artificially colored, FD&C Red #3, artificially flavored, vitamin A, dalmite added), Yeast, Salt

Contains: Wheat, Eggs, Milk, Soy

Sell by: 9/22/15
Net Weight: 1 pound (16 oz.)

The Bakery
412 Main Street
Anytown, MA 01234



**Food Protection Program
Bureau of Environmental Health
Massachusetts Department of Public Health
March 2015, 5th edition**

Notice to Applicants for a License to Manufacture and/or Distribute Food at Wholesale from a Residential Kitchen

It is important that applicants for a license to manufacture and/or distribute food at wholesale from a Residential Kitchen remember the following:

You Must:

- Meet the relevant requirements of 105 CMR 500.000: Good Manufacturing Practices
- Meet the requirements of 105 CMR 520.000: Labeling
- Manufacture and/or distribute *only* non-potentially hazardous foods, e.g., cakes, breads, brownies, etc., and foods that do not require refrigeration
- Manufacture all products in your home kitchen
- Employ only family members
- You **may not** manufacture:
 - Low-acid foods packaged in hermetically-sealed containers
 - Modified-atmosphere-packaged foods
 - Acidified foods
 - Dairy, seafood, meat or poultry products
 - Any potentially hazardous foods (phfs)

Remember:

- A potentially hazardous food is defined as:

Any food or ingredient, natural or synthetic, in a form capable of supporting

(1) rapid and progressive growth of infectious or toxigenic microorganisms or

(2) slower growth of *C. botulism*. (Included are any foods of animal origin, either raw or heat treated, and any foods of plant origin which have been heat treated and raw seed sprouts.)

(3) excluded are the following:

- (a) air dried hard boiled eggs with shells intact;
- (b) foods with a water activity (aw) value of 0.85 or less;
- (c) foods with a hydrogen concentration (pH) level of 4.6 or below;
- (d) foods in unopened hermetically sealed containers, which have been commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution; and,
- (e) foods for which laboratory evidence (acceptable to the Department) demonstrates that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of *C. botulism* cannot occur.